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CRISIS IN HAITI: SEEKING A POLITICAL SOLUTION

BACKGROUND

December 1990/January 1991 Elections

The United Nations first became actively involved in the situation in Haiti in June 1990, after the Provisional Government of that country formally requested the United Nations to observe its electoral process. It also asked for United Nations assistance in drawing up electoral security plans and in observing their implementation.

Haiti's request to the United Nations was one of the first acts of the Government of the Provisional President of Haiti, Ms. Ertha Pascal-Trouillot, who took office in March 1990 amid political, economic, social and institutional crisis prevailing in the country. To begin to provide a basis for solving the crisis, the Provisional Government identified the holding of free, fair and credible elections as a matter of top priority.

Following Haiti's request, and after extensive consultations among United Nations Member States, the General Assembly adopted by consensus its resolution 45/2 on 10 October 1990, and asked the Secretary-General to provide the broadest possible support to the Government of Haiti in meeting its requests for electoral observers, two or three security advisers to assist the Haitian Coordinating Committee for the Security of Electoral Activities, and specialized observers with solid experience in the field of public order. In line with the Assembly's request, the Secretary-General established the United Nations Observer Group for the Verification of the Elections in Haiti (ONUVEH) to provide that support. Haiti also asked the Organization of American States (OAS) and several non-governmental organizations to provide electoral observers. ONUVEH personnel, headed by Personal Representative of the Secretary-General for Haiti, Mr. João Augusto de Medicis (Brazil), began arriving in Haiti immediately following the establishment of the mission. Teams of electoral observers and security observers were then deployed throughout the country, covering the nine departments. ONUVEH established close cooperation with OAS observers and representatives of other organizations present in the country.

The first round of the elections was held on 16 December 1990. Haitian voters were asked to choose, by separate ballot, their president, legislative representatives and local officials. In cases where the required majority was not obtained, provision was made for a second round of elections. On 24 December, the Electoral Council announced the winner of the presidential election, the Rev. Jean-Bertrand Aristide. When the final results of the first round were released by the Council on 11 January 1991, they showed that President-elect Aristide had won 67 per cent of the vote.

ONUVEH concluded that the first round of elections had taken place without major incident and that the people of Haiti, for the first time in their history, had been able to participate in democratic elections, freely casting their ballots in conditions of security and without intimidation. Satisfactory conditions prevailed as well during complementary legislative elections which took place in some districts on 6 January 1991 and during the second round of elections which took place in most districts on 20 January.

International Community Reacts to *Coup d'Etat*

Haiti's first democratically elected President, Jean-Bertrand Aristide, took the oath of office on 7 February 1991. It was hoped that the elections would put an end to a long period encompassing the dictatorship of François and Jean-Claude Duvalier followed by five years of political instability under five different regimes and mark the beginning of an era of democracy and economic and social progress. However, on 30 September 1991, President Aristide was overthrown in a *coup d'état*, headed by Lieutenant-General Raoul Cédras, and forced into exile.

On the same day, while the whereabouts of President Aristide were still unknown, the Permanent Council of OAS condemned the *coup d'état* and its perpetrators, demanded adherence to the Constitution and respect for the legitimate Government, the physical safety of the President and the rights of the Haitian people, and called for the reinstatement of the President.

That same day, then United Nations Secretary-General Javier Pérez de Cuéllar made a statement in which he expressed the hope that calm would soon be restored and that the democratic process would be

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pursued in accordance with the Constitution. The President of the Security Council associated himself with the statement.

Meeting on 2 October, the OAS Ministers for Foreign Affairs heard a statement by President Aristide, and on 3 October they adopted a resolution demanding his immediate reinstatement. The Ministers recommended the diplomatic, economic and financial isolation of the de facto authorities and the suspension of any aid except that provided for strictly humanitarian purposes. They decided to dispatch a mission to Haiti and urged the United Nations to consider the spirit and aims of the resolution.

On 3 October, President Aristide addressed the United Nations Security Council. The President of the Council made a statement condemning the *coup*, calling for the restoration of the legitimate Government, supporting the efforts of OAS and expressing the hope that the President of Haiti would soon return to his country and resume his functions.

On 4 October, a high-level OAS delegation arrived in Haiti and met with representatives of various groups within the country. The delegation's negotiations with the High Command of the Haitian Armed Forces were interrupted on 7 October, when soldiers ordered the delegation members to leave the country.

On 7 October, the two Chambers of the Haitian Parliament, under pressure from the military, named the "Acting President", who in turn appointed, on 10 October, the "Prime Minister".

On 8 October, the OAS Ministers of Foreign Affairs adopted a second resolution in which they condemned the decision to replace the President illegally and declared unacceptable any Government that might result from that situation. They urged OAS Member States to freeze the financial assets of the Haitian State and to impose a trade embargo on Haiti, except for humanitarian aid. The Ministers called upon the Member States of the United Nations to adopt the same measures. They also decided to constitute, at the request of President Aristide, a civilian mission, known as OEA/DEMOC, to re-establish and strengthen constitutional democracy in Haiti.

On 11 October 1991, the United Nations General Assembly adopted by consensus resolution 46/7, in which it condemned the attempted illegal replacement of the constitutional President of Haiti, the use of violence and military coercion and the violation of human rights in Haiti; affirmed as unacceptable any entity resulting from that illegal situation; and demanded the immediate restoration of the legitimate Government of President Aristide, the application of the Constitution and thus the full observance of human rights in Haiti. The Assembly appealed to Member States to take measures in support of the OAS resolutions and emphasized that, when constitutional order was restored in Haiti, increased cooperation would be necessary to support the country's development efforts in order to strengthen its democratic institutions. The Assembly also requested the United Nations Secretary-General to consider providing the support sought by the OAS Secretary-General in implementing the mandates arising from the OAS resolutions.

Special Envoy Appointed

Since then, the United Nations Secretary-General has actively supported the intensive efforts by OAS and its mediator at the time, Mr. Ramírez Ocampo, the former Minister for Foreign Affairs of Colombia, aimed at finding a political solution to the Haitian crisis.

On 15 July 1992, newly elected Secretary-General Boutros Boutros-Ghali informed the Security Council that he had accepted the offer of the Secretary-General of OAS, Mr. João Baena Soares, to include United Nations participation in a mission to Haiti. The high-level mission led by the OAS Secretary-General visited Haiti from 18 to 21 August 1992. On 10 September, the United Nations Secretary-General informed the Council that his representative had taken part in the OAS mission, that the Haitian parties did not seem to have come closer together, that OAS was planning to deploy a first group of observers in Haiti and that it had decided to maintain the economic embargo. He concluded by saying that he intended to continue cooperating with OAS and stood ready to lend any other assistance.

On 3 November, the Secretary-General, in a report to the General Assembly, reviewed the efforts made by the international community to resolve the Haitian crisis. He also cited reports of a pattern of gross and widespread human rights abuses during the year since the *coup d'état* in Haiti. As a result of the deteriorating political, economic and humanitarian situation, thousands of Haitians were fleeing their country.

On 24 November 1992, the General Assembly adopted resolution 47/20, in which it, *inter alia*, again demanded the restoration of the legitimate Government of President Aristide, together with the full application of the National Constitution and the full observance of human rights, and requested the Secretary-General to take the "necessary measures", in order to assist, in

cooperation with OAS, in the solution of the Haitian crisis.

Following the adoption of the resolution, the Secretary-General, on 11 December 1992, appointed Mr. Dante Caputo, the former Minister for Foreign Affairs of Argentina, as his Special Envoy for Haiti. On 13 January 1993, the OAS Secretary-General also appointed Mr. Caputo as his Special Envoy.

INTERNATIONAL CIVILIAN MISSION

The Special Envoy held a series of preliminary consultations between 17 and 22 December 1992 in Washington, D.C., with President Aristide, and at Port-au-Prince, the capital of Haiti, with the Coordinator and members of the Presidential Commission, with the Commander-in-Chief of the Haitian Armed Forces, Lieutenant-General Raoul Cédras, with the then Prime Minister of the de facto Government, Mr. Marc Bazin,* and with the Presidents of the two Chambers of the National Assembly of Haiti. Further discussions were held with President Aristide in early January 1993.

On 8 January 1993, President Aristide, in a letter addressed to the Secretary-General, requested, among other things, the following: (a) the deployment by the United Nations and OAS of an international civilian mission to monitor respect for human rights and the elimination of all forms of violence; and (b) the establishment of a process of dialogue among the Haitian parties, under the auspices of the Special Envoy, with a view to reaching agreements for the solution of the political crisis, the designation of a Prime Minister by the President to lead a Government of national concord aimed at the full restoration of democratic order in Haiti; agreements for the rehabilitation of Haitian institutions, including the reform of the judicial system, the professionalization of the armed forces and the separation of the police from the armed forces; international technical assistance for national reconstruction; and a system of guarantees to ensure a lasting solution. An identical letter was addressed to the Secretary-General of OAS.

After further meetings at Port-au-Prince on 16 and 17 January 1993, the Special Envoy received two letters, one from Lieutenant-General Cédras and the other from Mr. Bazin, accepting in principle an international civilian mission and a dialogue among the Haitian parties to resolve the political crisis in the country.

In a letter of 18 January 1993 to President Aristide, the Secretary-General agreed to the United Nations participation in the International Civilian Mission for verifying respect for human rights and the eradication of all forms of violence in Haiti, subject to the approval of the General Assembly and under terms to be agreed jointly with OAS.

In the meantime, faced with the announcement by the de facto Government of Haiti that it was proceeding with the holding of elections for a third of the Senate, the Permanent Council of OAS adopted, on 13 January 1993, a declaration repudiating the proposed elections and declaring them to be "illegitimate" and obstructive of the efforts under way by OAS and the United Nations towards restoring the democratic institutional framework in Haiti. The United Nations Secretary-General supported the OAS declaration. However, his request to the de facto Haitian authorities that the elections be cancelled was not heeded.

Mission's Objectives

Following the Special Envoy's consultations with the Secretaries-General of the United Nations and of OAS concerning the mandate of the International Civilian Mission and the modalities of its operation, the joint ideas were presented to and agreed upon by President Aristide. The terms of the agreement regarding the Mission were subsequently incorporated in an exchange of letters between the de facto Prime Minister, Mr. Bazin, and the Special Envoy on 9 February 1993.

Under the agreement, the International Civilian Mission is to verify respect for human rights as laid down in the Haitian Constitution and in the international instruments to which Haiti is a party, in particular, the International Covenant on Civil and Political Rights and the American Convention on Human Rights. The Mission would devote special attention to the observance of the rights to life, to the integrity and security of the person, to personal liberty, to freedom of expression and to freedom of association. The Mission is entitled to receive communications relating to alleged human rights violations, to visit freely any place or establishment, to enjoy entire freedom of movement within Haitian territory, to interview anybody freely and privately, to make recommendations to the authorities and verify their follow-up, to undertake a public information and education campaign on human rights and to use the mass media to the extent useful for the fulfilment of its mandate. It is understood that the Mission is authorized to resort to other international procedures for the promotion and protection of human rights.

The agreement also provides that once the Mission has been deployed, the Special Envoy would under-

*Mr. Bazin resigned on 8 June 1993.

take discussions regarding ways and means through which the United Nations and OAS may assist in reinforcing democracy, accelerating economic development and professionalizing national institutions, in particular, the judicial system, the armed forces and the police.

In his 24 March 1993 report to the General Assembly, the Secretary-General recommended that the Assembly establish the United Nations component of the joint International Civilian Mission in Haiti. The United Nations component of the Mission is to comprise some 200 international staff, including 133 human rights observers. OAS provides another 133 international observers, plus other required personnel for its component. The report also contained the proposals submitted by the team of three international human rights experts, which had visited Haiti from 15 to 22 February 1993, including its recommendations on the deployment of the Mission throughout Haiti, the modalities of its operation and its needs in terms of personnel and resources.

General Assembly Acts

On 20 April 1993, the General Assembly adopted, without a vote, its resolution 47/20B approving the Secretary-General's report and authorizing the deployment of the United Nations participation, jointly with OAS, in the International Civilian Mission to Haiti. The Assembly reiterated the need for an early return of President Aristide to resume his constitutional functions as President and strongly supported the process of political dialogue under the auspices of the Special Envoy with a view to resolving the political crisis in Haiti. It reiterated that any entity resulting from actions of the de facto regime, including the partial elections to the parliament in January 1993, was illegitimate.

By other provisions of the resolution, the General Assembly considered that any modifications regarding the economic measures recommended by the ad hoc meeting of the OAS Foreign Ministers should be considered according to progress in the observance of human rights and in the solution of the political crisis. It reaffirmed the international community's commitment to increased technical, economic and financial cooperation when constitutional order is restored in Haiti, in order to strengthen institutions responsible for dispensing justice and guaranteeing democracy, political stability and economic development.

Civilian Mission Deployed

Pending the General Assembly's approval, the United Nations Secretary-General dispatched to Haiti on 13 February 1993 an advance team and a survey group to prepare for the deployment of the United Nations component of the Mission. At the same time, an initial group of 40 observers from OAS arrived in Haiti on 14 February where they joined forces with a small team of OAS observers that had been in Port-au-Prince since September 1992.

The Mission operates under a Head of Mission, appointed jointly by the United Nations and OAS and reporting to the Special Envoy. Its headquarters is located at Port-au-Prince with 14 regional offices and sub-offices across the country. It has been estimated that the financial requirements for the United Nations participation in the Mission in 1993 would amount to approximately $23.7 million.

Deployment in the provinces began on 5 March. By the end of March, the Mission had a team in each of the nine departments of the country. By the end of May 1993, the Mission had 141 international staff members, including 86 observers deployed in the regional teams. The Executive Director of the joint Mission is Mr. Colin Granderson (Trinidad and Tobago). Mr. Ian Martin (United Kingdom) has been appointed as Director for Human Rights and Deputy to the Executive Director.

On 3 June 1993, the Civilian Mission submitted its first report on the human rights situation in Haiti. The report, which was of an interim nature, concentrated on such issues as violations of the right to integrity and security of person linked to violations of the right to freedom of expression and association; deaths in detention, disappearances and arbitrary executions; and other violations of the right to physical integrity and individual security.

TOWARDS A POLITICAL SOLUTION

Oil and Arms Embargo Imposed

In the meantime, the Secretary-General's Special Envoy conducted consultations with the parties concerned aimed at seeking a political solution to the Haitian crisis. The immediate objective of those consultations was to achieve agreement on three main issues, namely the return of President Aristide to Haiti, the appointment of a Prime Minister to head a government of national concord and the resolution of the question of amnesty. Other critical issues included technical assistance for the economic and institutional reconstruction of the country, the nature and duration of the international

presence in Haiti, coupled with international guarantees to ensure compliance with the agreements.

Despite the mounting international pressure, however, the negotiating process undertaken by Mr. Caputo was rejected by the de facto authorities and the military command in Haiti when they refused to accept the key elements of the proposed framework for a settlement.

On 7 June 1993, the Permanent Representative of Haiti to the United Nations addressed a letter to the President of the Security Council, in which he stated that despite the efforts of the international community, constitutional order had not yet been re-established in Haiti because the de facto authorities continued to obstruct all initiatives. In light of that situation, the letter went on, the Government of Haiti requested the Security Council to make universal and mandatory the sanctions against the de facto authorities adopted at the meeting of Ministers for Foreign Affairs of OAS and recommended in the General Assembly resolutions, giving priority to an embargo on petroleum products and the supply of arms and munitions.

On 16 June, the Security Council, acting under Chapter VII of the Charter, unanimously adopted resolution 841 (1993), by which it decided to impose an oil and arms embargo against Haiti as part of the continuing international effort to restore constitutional rule to that country. The President of the Council, in a statement on behalf of its members, said that the adoption of the resolution was warranted by the unique and exceptional situation in Haiti and should not be regarded as constituting a precedent.

The Council decided that the sanctions would enter into force on 23 June 1993 unless the Secretary-General, having regard to the views of the Secretary-General of OAS, reported to the Council that, in the light of the results of negotiations currently under way, the measures were no longer warranted. At any time after such reporting, should the de facto authorities in Haiti fail to comply in good faith with their undertakings in those negotiations, the sanctions measures would enter into force immediately.

The resolution obliged States to prevent the sale or supply, by their nationals or from their territories or using their flag vessels or aircraft, of petroleum or petroleum products or arms and related *matériel* including military vehicles, police equipment and their spare parts to any person or body in Haiti. States were also to prevent any activities by their nationals or in their territories which promote or are calculated to promote such sale or supply. States were also required to freeze all funds in the name of the Government of Haiti or the de facto authorities there, as well as those funds controlled directly or indirectly by the two wherever located or organized.

A committee of the Security Council consisting of all its members was established to monitor compliance with the resolution and promulgate guidelines to facilitate its implementation. The committee may authorize, on an exceptional case-by-case basis under a no-objection procedure, the importation to Haiti of petroleum products in non-commercial quantities and only in barrels and bottles, for verified essential humanitarian needs.

The Council also called upon all States to cooperate with the committee by providing whatever information it might seek. It also called upon States to bring proceedings against persons and entities violating the measures imposed by the Council and to impose appropriate penalties.

Agreements Reached

On 21 June 1993, Mr. Caputo received a letter from the Commander-in-Chief of the Haitian Armed Forces, Lieutenant-General Cédras, accepting the Special Envoy's earlier invitation to him to initiate a dialogue with President Aristide with a view to resolving the Haitian crisis.

On 3 July, after almost a week of talks on Governors Island, New York City, President Aristide and Lieutenant-General Cédras signed an agreement containing arrangements which the parties felt paved the way to a "satisfactory solution to the Haitian crisis and the beginning of a process of national reconciliation."

Under the Agreement, President Aristide will appoint a new Commander-in-Chief of the Armed Forces to replace Lieutenant-General Cédras, who will take early retirement. President Aristide will return to Haiti on 30 October 1993. The parties agreed to a political dialogue, under the auspices of the United Nations and OAS, between representatives of political parties represented in the Parliament, with the participation of representatives of the Presidential Commission. The objectives of the political dialogue were to reach a political truce and promote a social pact to create conditions necessary to ensure a peaceful transition, to establish procedures to enable the Haitian Parliament to resume its normal functioning; to reach an agreement enabling the Parliament to confirm the Prime Minister as speedily as possible; and to reach an agreement permitting the adoption of the laws necessary for ensur

ing the transition. The parties further agreed that the President nominate a Prime Minister, to be confirmed by the legally reconstituted Parliament. Following his confirmation and assumption of office, all United Nations and OAS sanctions were to be suspended. Other provisions dealt with issues of amnesty, the creation of a new police force and international cooperation.

The Agreement specifically requested the presence of United Nations personnel in Haiti to assist in modernizing the Armed Forces and establishing the new Police Force. The Secretary-General, after consultations with the constitutional Government of Haiti, was to report to the Security Council with his recommendations on that aspect of the implementation of the Agreement. The United Nations and OAS were called upon to verify the fulfilment of all the commitments set out in the Agreement. The Secretary-General entrusted the verification to his Special Envoy and asked him to report regularly to him and the Secretary-General of OAS.

Suspension of the Sanctions

In his letter to the Secretary-General on 15 July, the President of the Security Council confirmed the readiness of the Council to suspend the sanctions imposed against Haiti under Security Council resolution 841 (1993) immediately after the ratification of the Prime Minister and his assumption of his functions in Haiti. It was agreed that provisions would be made for the automatic termination of such suspension if the parties to the Agreement or any authorities in Haiti failed to comply in good faith with the Agreement. The Council also declared its readiness to terminate the sanctions, upon receipt of a report from the United Nations Secretary-General immediately after the return of President Aristide to Haiti.

Political Truce Signed

On 14 July 1993, representatives of political forces and parliamentary blocs began a political dialogue under the auspices of the United Nations and OAS.

At the conclusion of the talks in New York on 16 July, the parties agreed on a six-month truce "to guarantee a smooth and peaceful transition" in their country. In agreeing to the truce, the parties undertook to promote and guarantee respect for human rights and fundamental freedoms, and to refrain from any action that might lead to violence or disrupt the transition to democracy. They also undertook not to table motions of no-confidence against the new Government of national concord, insofar as it respected the Constitution and the laws of the Republic, or to obstruct the work of the Parliament.

The signatories invited President Aristide to appoint a new Prime Minister as soon as possible, and undertook to ensure that laws necessary for the transition of power were passed on the basis of an emergency procedure.

They agreed that the members of Parliament elected as a result of the contested elections of 18 January 1993 would voluntarily refrain from occupying their parliamentary seats until the Conciliation Commission has rendered its verdict on this issue.

The United Nations and OAS agreed to make two experts available to help prepare and implement an act establishing the Conciliation Commission.

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